

## REMARKS/ARGUMENTS

This Amendment is in response to the Office Action dated February 20, 2003. Accompanying this Amendment is a two-month petition for extension of time, extending the period for response through July 20, 2003.

Claims 35 and 38-52 are pending in the application.

The Examiner's allowance of Claims 50-52 is acknowledged with appreciation. The Examiner's indication that Claims 39-41 and 47-49 would be allowable if rewritten in independent form is also acknowledged with appreciation.

By the present Amendment, independent Claim 35 has been amended to recite an automatic latch restraint assembly comprising, in part, restraint means including a second latch for manually securing a first latch only when the first latch is in the fully retracted position. Independent Claim 43 has been amended to recite an automatic door latch restraint assembly comprising, in part, restraint means including a second latch for manually securing a dead bolt only when the dead bolt is in the fully retracted position. Basis for the amended language of Claims 35 and 43 is provided in the specification, for example, at page 13, lines 7-15. No issue of new matter is presented.

Claim 43 stands rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Dietrich '884. According to the Office Action, Dietrich '884 discloses a dead bolt 36 movable to an extended position in which the dead bolt automatically locks against retraction when end pressure is applied to the dead bolt, a partially retracted position, and a fully retracted position. The Office Action further states that Dietrich '884 discloses a first spring 30 biasing the dead bolt toward the extended position, and restraint means including a second latch 24 for manually securing the dead bolt in the fully retracted position. Applicant respectfully traverses this rejection.

Dietrich '884 discloses a dead bolt latch that is movable from a fully retracted position (see Fig. 3 and column 3, lines 59-60) to a fully extended position (see Fig. 7 and column 4, lines 29-30). As disclosed at column 3, lines 59-68 of Dietrich '884, in the fully retracted position shown in Fig. 3, the bolt 20 is maintained in the retracted position by the force exerted by the compression spring 30 which forces the edge 46 of the opening 44 of the bolt extension 22 against an end abutment surface 54 of

the cam 24. According to the reference, the latch 10 remains in the retracted position until the bolt 20 is adjusted to release the end surface 54 (column 3, lines 67 and 68).

Thus, when the latch 20 of Dietrich '884 is in the fully retracted position, it is held in that position by the end surface 54 of the actuating cam 24. Applicant submits that the actuating cam 24 of Dietrich '884 cannot be considered a restraint means as recited in Claim 43 which includes a second latch for manually securing the dead bolt in the fully retracted position. Moreover, even if the actuating cam 24 of Dietrich '884 could be considered a "second latch" for manually securing the dead bolt in the fully retracted position, amended Claim 43 further recites that the second latch only secures the dead bolt when the dead bolt is in the fully retracted position. The actuating cam 24 of Dietrich '884 rotates from the "fully retracted" position shown in Fig. 3 through the positions shown in Figs. 4-6, to the "fully extended" position shown in Fig. 7. The actuating cam 24 of Dietrich '884 does not secure the dead bolt only in the retracted position. For example, as shown in Fig. 7, the actuating cam 24 of Dietrich '884 secures the latch 20 in the fully extended position. Amended Claim 43 therefore distinguishes over Dietrich '884.

Claims 35, 38 and 42-46 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by McConnell '376. According to the Office Action, McConnell '376 discloses a dead bolt/first latch that is movable to an extended position in which the dead bolt automatically locks against retraction when end pressure is provided to the dead bolt, a partially retracted position, and a fully retracted position (Fig. 4). The Office Action further states that McConnell '376 discloses restraint means including a second latch 25 for manually securing the dead bolt in the fully retracted position because the latch 25 may engage a keeper or tooth on the assembly when the bolt is in the fully retracted position. Applicant respectfully traverses this rejection.

As shown in Figs. 7 and 8 and disclosed at column 3, lines 54-61 of McConnell '376, the latch 33 may be actuated by a knob which rotates members 21 and 22. Column 3, lines 37-41 of McConnell '376 states that the latch may be provided with a dogging mechanism by means of a dog member 25 supported in a guide 26 for manual actuation. The dog member 25 slides into or out of dogging engagement with the teeth on the rotatable member 21.

Thus, McConnell '376 teaches that the dog member 25 dogs the latch 33 by engagement with teeth of the rotary member 21. McConnell '376 does not explicitly disclose that the latch 33 can be dogged in its fully retracted position, as presently claimed. Instead, the dogging mechanism of McConnell '376 is apparently intended to dog the latch 33 in the fully extended position in order to prevent retraction of the latch 33. Moreover, even if the dog member 25 of McConnell '376 could properly be read to manually secure the latch 33 in the fully retracted position, the dogging member 25 would also be capable of securing the latch 33 in other positions. For example, the dog member 25 could secure the latch 33 in its fully extended position.

In contrast, amended independent Claims 35 and 43 recite that the restraint means includes a second latch for manually securing the first latch or dead bolt only when the first latch or dead bolt is in the fully retracted position. Independent Claims 35 and 43, and the claims that depend therefrom, are therefore patentable over McConnell '376.

In view of the foregoing amendments and remarks, it is submitted that Claims 35 and 38-52 are patentable over the prior art of record. Accordingly, an early notice of allowance of this application is respectfully requested.

In the event that any outstanding matters remain in connection with this application, the Examiner is invited to telephone the undersigned at (412) 263-4340 to discuss such matters.

Respectfully submitted,



Alan G. Towner  
Registration No. 32,949  
Pietragallo, Bosick & Gordon  
One Oxford Centre, 38<sup>th</sup> Floor  
301 Grant Street  
Pittsburgh, PA 15219  
Attorney for Applicant

(412) 263-4340